

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.3789 OF 2005**

Shivanand Pandurang Mane

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr.V.V.Purwant for the Applicant

Mr.R.Y.Mirza, A.P.P. for State

CORAM: A.S.OKA,J.

DATE : JUNE 20,2005.

P.C.:

1. Heard Advocate for the Applicant and Shri Gadkari, learned A.P.P. for the State. The offences alleged against the Applicant and his co-accused are under Sections 147, 148, 149, 307, 324, 341, 427, 504 read with Section 34 of the Indian Penal Code registered with the Valsang Police Station, District Solapur.

2. The case made out in the F.I.R. is that the complainant along with his uncle were travelling in a jeep. While they were travelling by the jeep near Bhimnagar locality, a child suddenly came before the jeep. However, the Applicant's uncle saved the child by turning the vehicle. The case is that at that time the other child who was present there abused the uncle of the complainant. There was an altercation and at that time two or three boys from the Bhimnagar locality came there and they abused the complainant's uncle and assaulted him by fist blows and kicks. The complainant informed about

the said incident to his family by using cell phone and called his father. He came there with the police and the matter was resolved. Thereafter the Applicant accompanied by his uncle went back by the jeep and his father left for Hotagi village. Thereafter the complainant was informed by one Sai Nadaf regarding the assault made by the accused on his father. The F.I.R. was registered against the Applicant and others under Sections 147,148,149,307,324,341,427,504,506 read with section 34 of I.P.C. for assaulting the father and uncle of the complainant by sword, sticks and stones.

3. The Advocate for the Applicant submitted that the charge sheet has been filed. He pointed out that though he is not claiming parity some of the accused are enlarged on bail. He submitted that considering the prosecution story this a case where the Applicant should be enlarged on bail.

4. The learned A.P.P. pointed out that some of the witnesses whose statements have been recorded have stated that apart from the assault made on the father of the complainant, there was a theft of valuables such as gold ring, cell phone etc. He therefore submitted that the Applicant cannot be enlarged on bail.

5. I have considered the submissions. The charge sheet has been filed long back. Before the alleged offence, there was an incident in the same locality involving the brother of the

injured. Prima facie this appears to be a case where there is a fight between the two groups. In the F.I.R. there is no specific allegation against the Applicant regarding the theft of the articles.

6. Shri Gadkari, learned A.P.P. states that all the witnesses are staying in the same village where the Applicant is staying. If the Applicant is enlarged on bail, he may be directed not to enter the jurisdiction of Valsang Police Station, District Solapur.

7. Considering the fact that the charge sheet is filed and considering the nature of the allegations made therein, in my view, a case is made out for grant of bail. However, the Applicant will have to be subjected to the stringent conditions so that he will not get opportunity to influence the prosecution witnesses.

8. Hence I pass the following order :

i) The Applicant shall be enlarged on bail in connection with C.R.No.69 of 2004 registered at Valsang Police Station, District Solapur subject to the Applicant furnishing P.R.Bond in the sum of Rs.10,000/- (Rupees ten thousand only) with one or two local sureties in the like amount.

ii) Bail is granted subject to the condition that till the

conclusion of the trial the Applicant will not enter in the area within the jurisdiction of Valsang Police Station, District Solapur without prior permission of the Trial Court.

iii) The Applicant will attend the local Police Station once in a week within whose jurisdiction he will be residing.

iv) The Applicant shall be enlarged on bail only after the Applicant submits his new address of residence to the Superintendent of the concerned jail. Unless this condition is complied with, the order granting bail shall not be given effect.

v) The Applicant will not make any attempt directly or indirectly to influence or pressurise the prosecution witnesses and will not tamper with the evidence.

vi) The Applicant will remain present on the date fixed for hearing in the Trial Court.

vii) Any attempt on the part of the Applicant to delay the trial may be a ground for cancellation of bail.

viii) Application is disposed of.

JUDGE